IN THE SUPREME COURT OF IOWA

No. 16-1731

PAULA J. TYLER and MARK J. ALCORN,

Petitioners-Appellants,

v.

IOWA DEPARTMENT OF REVENUE,

Respondent-Appellee.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE ROBERT J. BLINK, JUDGE

BRIEF OF APPELLEE
AND
REQUEST FOR ORAL ARGUMENT

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FINAL BRIEF

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes

Constitution

Other Authorities

STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

The Iowa Department of Revenue ("Department") agrees with Paula J. Tyler's and Mark J. Alcorn's (collectively "Taxpayers") statement of the issue presented for review.

WHETHER THE IOWA DISTRICT COURT CORRECTLY UPHELD THE AGENCY'S CONCLUSION THAT IOWA CODE SECTION 450.1(1)(e) DID NOT VIOLATE THE EQUAL PROTECTION CLAUSE OF THE IOWA CONSTITUTION.

Iowa Code § 450.1(1)(e) (2011)

Iowa Const. art. I, § 6

Iowa Code § 17A.19(10)

Renda v. Iowa Civil Rights Comm'n, 784 N.W.2d 8 (Iowa 2010)

Richards v. Iowa Dep't of Revenue, 360 N.W.2d 830 (Iowa 1985)

McClure v. Iowa Real Estate Comm'n, 356 N.W.2d 594 (Iowa Ct. App. 1984)

Iowa Ag Const. Co. v. Iowa State Bd. of Tax Review, 723 N.W.2d 167 (Iowa 2006)

Iowa Code § 17A.19(10)(a)

NextEra Energy Res. LLC v. Iowa Utils. Bd., 815 N.W.2d 30 (Iowa 2012)

Qwest Corp. v. Iowa State Bd. of Tax Review, 829 N.W.2d 550 (Iowa 2013)

Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009)

LSCP, LLLP v. Kay-Decker, 861 N.W.2d 846 (Iowa 2015), *reh'g denied* May 6, 2015

King v. State, 818 N.W.2d 1 (Iowa 2012)

Racing Ass'n of Cent. Iowa v. Fitzgerald ("RACI II"), 675 N.W.2d 1 (Iowa 2004)

Camacho v. Iowa Dep't of Revenue & Fin., 666 N.W.2d 537 (Iowa 2003)

Iowa Code § 4.4(1) (2015)

Hearst Corp. v. Iowa Dep't of Revenue & Fin., 461 N.W.2d 295 (Iowa 1990)

Madden v. Kentucky, 309 U.S. 83 (1940)

San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1 (1973)

Racing Ass'n of Cent. Iowa v. Fitzgerald, 648 N.W.2d 555 (Iowa 2002)

Dickinson v. Porter, 35 N.W.2d 66 (Iowa 1948)

City of Coralville v. Iowa Utils. Bd., 750 N.W.2d 523 (Iowa 2008)

Iowa Code § 450.9 (2011)

42 AM. JUR. 2D *Inheritance, Estate, & Gift Taxes* § 9

Van Buren Cnty. Hosp. & Clinics v. Bd. of Review of Van Buren Cnty., 650 N.W.2d 580 (Iowa 2002)

Iowa Code ch. 450

Richard Baron, *Capital Gains Tax and Inheritance Tax* 9 (Inst. of Dirs., Policy Paper, Feb. 2007)

Estate of Kunkel v. United States, 689 F.2d 408 (3d Cir. 1982)

Rose M. Kreider & Renee Ellis, *Living Arrangements of Children: 2009* 1 (U.S. Dep't of Commerce, Bureau of Census June 2011)

Iowa Code § 252A.2(2) (2011)

Iowa Code § 252A.3(1) (2011)

Iowa Code ch. 600A

Iowa Code § 600A.2(17) (2011)

Iowa Code § 600A.2(6) (2011)

Iowa Code § 600A.2A (2011)

Iowa Code § 600.2(1) (2011)

Iowa Code § 600.3(2)(a)(2) (2011)

1997 Iowa Acts, 77 G.A., ch.1, § 2

Branstad v. State ex rel. Natural Res. Comm'n, 871 N.W2d 291 (Iowa 2015)

Moore v. City of E. Cleveland, 431 U.S. 494 (1977)

Callender v. Skiles, 591 N.W.2d 182 (Iowa 1999)

Estate of Robitaille v. N.H. Dep't of Revenue Admin., 827 A.2d 981 (N.H. 2003)

Judicial Branch & State Ct. Adm'r v. Iowa Dist. Ct. for Linn Cnty., 800 N.W.2d 569 (Iowa 2011)

In re P.L., 778 N.W.2d 33 (Iowa 2010)

Rose M. Kreider & Daphne A. Lofquist, *Adopted Children and Stepchildren: 2010* 31, Table 12 (U.S. Dep't of Commerce, Bureau of Census Apr. 2014)

King v. King, 828 S.W.2d 630 (Ky. 1992)

Walker v. Blair, 382 S.W.3d 862 (Ky. 2012)

Trimble v. Gordon, 430 U.S. 762 (1977)

Ames Rental Prop. Ass'n v. City of Ames, 736 N.W.2d 255 (Iowa 2007)

Nationsbank of Tex. v. United States, 269 F.3d 1332 (Fed. Cir. 2001)

Maxwell v. Bugbee, 250 U.S. 525 (1919)

Iowa Code § 450.9 (2017)

Muskat v. United States, 554 F.3d 183 (1st Cir. 2009)

Dotson v. United States, 87 F.3d 682 (5th Cir. 1996)

F.M.C. Stores Co. v. Borough of Morris Plains, 495 A.2d 1313 (N.J. 1985)

Smith-Silk v. Prenzler, 998 N.E.2d 680 (Ill. Ct. App. 2013)

ROUTING STATEMENT

The Department agrees that the Iowa Supreme Court should retain this appeal. *See* Appellants' Br. at 3.

STATEMENT OF THE CASE

The Department agrees with Taxpayers' statement of the case, except for the assertion that "[i]n 2003, the Iowa Legislature decided that it wanted to raise additional tax revenue, and it chose to obtain this money [by enacting section 450.1(1)(e)]." *See* Appellants' Br. at 3. The record contains no evidence regarding the legislature's motives in enacting section 450.1(1)(e). Moreover, as the district court recognized, the Department has never asserted the need to raise additional tax revenues as a stand-alone legitimate governmental interest justifying the challenged classification. *See* Ruling at 1–2 (App. at 43–44); *see also* Hr'g Tr. at 18:2–8 (App. at 131); Dep't's Post-Hr'g Br. at 8–9, 14–15; & Br. of Resp't to Dist. Ct. at 17–18.

STATEMENT OF THE FACTS

The Department agrees with Taxpayers' recitation of the relevant facts, with the following four clarifications. First, the Department disagrees that "[Taxpayers are the stepchildren of the decedent, Donald H. Hitzhusen [(hereinafter "Decedent")]." *See* Appellants' Br. at 5; *see also id.* at 8 ("Paula and Mark were Donald's stepchildren . . . ."). Indeed, for inheritance tax purposes, Taxpayers

are Decedent's stepchildren only if they fall under the scope of the stepchild definition in section 450.1(1)(e), and they do not.

Second, although Decedent willed much of his property to Taxpayers, he also gave approximately twenty-three percent of his $1.8 million net estate to Constance Hitzhusen, Decedent's former wife and Taxpayers' biological mother. *See* Ex. B at 1 (App. at 105).

Third, Decedent did not legally adopt Taxpayers. *See* Hr'g Tr. at 55:10–12 (App. at 140).

Fourth, the Department disagrees with Taxpayers' assertion that section 450.1(1)(e) violates the equal protection clause of the Iowa Constitution. *See* Appellants' Br. at 8–9.

ARGUMENT

THE IOWA DISTRICT COURT CORRECTLY UPHELD THE AGENCY'S CONCLUSION THAT IOWA CODE SECTION 450.1(1)(e) DID NOT VIOLATE THE EQUAL PROTECTION CLAUSE OF THE IOWA CONSTITUTION.

A. Preservation of Error.

The Department agrees that Taxpayers preserved this issue for appeal. *See* Appellants' Br. at 10.

B. Standard of Review.

Iowa Code section 17A.19(10) controls the judicial review of agency decisions. *Renda v. Iowa Civil Rights Comm'n*, 784 N.W.2d 8, 10 (Iowa 2010) (internal citation omitted). "This court, like the district court, functions in an appellate capacity to correct any errors of law on the part of the agency." *Richards v. Iowa Dep't of Revenue*, 360 N.W.2d 830, 831 (Iowa 1985) (internal citation omitted). The appellate court must "apply the standards of section 17A.19(10) to determine if . . . [it] reach[es] the same results as the district court." *Id.* (internal citation omitted). "[Appellate] review is limited to a determination of whether the district court made errors of law when it exercised its power of review of agency decision under Iowa Code section 17A.19." *McClure v. Iowa Real Estate Comm'n*, 356 N.W.2d 594, 596 (Iowa Ct. App. 1984) (internal citations omitted). "Iowa Code section 17A.19 limits the district court's review to a determination of whether the agency committed any of the errors of law set out in section 17A.19(8) [now section 17A.19(10)]." *Id.* If the appellate court reaches the same conclusions, it affirms the district court; otherwise, the lower court is reversed. *Iowa Ag*

Const. Co. v. Iowa State Bd. of Tax Review, 723 N.W.2d 167, 172 (Iowa 2006).

Taxpayers seek judicial review under Iowa Code section 17A.19(10)(a) of the Department's denial of their claim for inheritance tax refund. *See* Am. Pet. for Judicial Review ¶ 7 (App. at 40). Specifically, Taxpayers argue that the Department's final decision "incorrectly interpreted the Iowa Constitution and upheld the challenged distinction created by the 'stepchild' definition in Iowa Code chapter 450." *See id.* (App. at 40). "[This Court] give[s] . . . [no] deference to the agency with respect to the constitutionality of a statute . . . because it is entirely within the province of the judiciary to determine the constitutionality of legislation enacted by other branches of government." *NextEra Energy Res. LLC v. Iowa Utils. Bd.*, 815 N.W.2d 30, 44 (Iowa 2012) (internal citations omitted). "Accordingly, . . . constitutional issues in agency proceedings [are reviewed] de novo." *Id.* (internal citation omitted).

C. Legal Framework For Analyzing Equal Protection Claims Under The Iowa Constitution.

Iowa's equal protection clause guarantees that "[a]ll laws of a general nature shall have a uniform operation; the general assembly

shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens." Iowa Const. art. I, § 6. In other words, the equal protection clause requires that "'all persons similarly situated . . . be treated alike.'" *See Qwest Corp. v. Iowa State Bd. of Tax Review*, 829 N.W.2d 550, 558 (Iowa 2013) (quoting *Varnum v. Brien*, 763 N.W.2d 862, 878 (Iowa 2009)).

Iowa courts "review[] economic legislation—which includes tax statutes—under a rational basis test." *LSCP, LLLP v. Kay-Decker* (hereinafter "*Little Sioux*"), 861 N.W.2d 846, 858 (Iowa 2015), *reh'g denied* May 6, 2015. "[T]o pass th[is] . . . test, the statute must be rationally related to a legitimate state interest." *Id.* (internal citation and quotation marks omitted). The rational basis test is very deferential, and when applied to tax laws, "they have generally been upheld without much difficulty." *See id.* at 859 (collecting cases). Thus, the challenged classification will be upheld "unless the relationship between the classification and the purpose behind it is so weak [that] the classification must be viewed as arbitrary or capricious." *King v. State*, 818 N.W.2d 1, 27–28 (Iowa 2012)

(internal citation and quotation marks omitted); *accord Qwest Corp.*, 829 N.W.2d at 558 ("The fit between the means and the end can be far from perfect so long as the relationship is not so attenuated as to render the distinction arbitrary or irrational." (internal citation and quotation marks omitted)). "[Courts may] uphold legislative classifications based on judgments the legislature could have made, without requiring evidence or proof in either a traditional or a nontraditional sense." *King,* 818 N.W.2d at 30 (internal citations and quotation marks omitted). "[A] person challenging a statute shoulders a heavy burden . . . of negating every reasonable basis that might support the disparate treatment." *Racing Ass'n of Cent. Iowa v. Fitzgerald* ("*RACI II*"), 675 N.W.2d 1, 8 (Iowa 2004) (internal citations omitted). Accordingly, the burden lies with Taxpayers to prove that section 450.1(1)(e) is "so clearly and plainly in contravention of the constitutional limitations and its guarantees as to leave no reasonable doubt as to its unconstitutionality." *See Camacho v. Iowa Dep't of Revenue & Fin.*, 666 N.W.2d 537, 543 (Iowa 2003) (internal citation and quotation marks omitted). Under Iowa law, statutes are presumed constitutional. *See* Iowa Code

§ 4.4(1) (2015). "[Thus,] every reasonable doubt must be resolved in favor of constitutionality." *Hearst Corp. v. Iowa Dep't of Revenue & Fin.*, 461 N.W.2d 295, 301 (Iowa 1990).

A State has broad powers to impose and collect taxes. In *Madden v. Kentucky*, the United States Supreme Court held that

> [t]he broad discretion as to classification possessed by a legislature in the field of taxation has long been recognized. This Court fifty years ago concluded that the fourteenth amendment was not intended to compel the states to adopt an iron rule of equal taxation, and the passage of time has only served to underscore the wisdom of that recognition of the large area of discretion which is needed by a legislature in formulating sound tax policies. Traditionally classification has been a device for fitting tax programs to local needs and usages in order to achieve an equitable distribution of the tax burden. It has, because of this, been pointed out that in taxation, even more than in other fields, legislatures possess the greatest freedom in classification.

309 U.S. 83, 87–88 (1940) (footnotes omitted) (cited in *Hearst*, 461 N.W.2d at 304). In 1973, the Supreme Court reaffirmed these principles and explained that

> [n]o scheme of taxation, whether the tax is imposed on property, income, or purchases of goods and services, has yet been devised which is free of all discriminatory impact. In such a complex arena in which no perfect alternatives exist, the Court does well not to impose too rigorous a standard of scrutiny lest all local fiscal schemes

> become subjects of criticism under the Equal Protection Clause.

San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 40–41 (1973). The legislatures' broad discretion as to classification in the field of taxation is widely recognized and accepted. The Iowa Supreme Court has also adopted these principles. *See Racing Ass'n of Cent. Iowa v. Fitzgerald*, 648 N.W.2d 555, 558 (Iowa 2002) ("We have said before the legislature acts with broad authority in the realm of taxation."); *Dickinson v. Porter*, 35 N.W.2d 66, 72 (Iowa 1948) ("In tax matters even more than in other fields legislatures possess the greatest freedom in classification. . . . An iron rule of equal taxation is neither attainable nor necessary." (internal citations and quotation marks omitted)). This Court must analyze Taxpayers' equal protection claim against the backdrop of these well-established and recognized principles.

The first step in analyzing Taxpayers' equal protection challenge requires that this Court determine whether the statute distinguishes between similarly situated persons. *See Qwest Corp.*, 829 N.W.2d at 561. "Dissimilar treatment of persons dissimilarly situated does not offend equal protection." *City of Coralville v. Iowa Utils. Bd.*, 750

N.W.2d 523, 531 (Iowa 2008). If Taxpayers cannot identify a class of similarly situated individuals that is treated more favorably under section 450.1(1)(e), there is no need to proceed to the second step of the equal protection analysis, i.e., deciding whether the challenged classification is rationally related to a legitimate state interest. *See Qwest Corp.*, 829 N.W.2d at 561.

D. Taxpayers Are Not Similarly Situated With Stepchildren, As Defined In Section 450.1(1)(e).

In recent years, the Iowa Supreme Court has chosen to de-emphasize[1] this threshold inquiry and instead focus on the legitimacy step of the rational basis test, but the Court has not abolished this first element of the equal protection analysis. *See, e.g., Little Sioux,* 861 N.W.2d at 859–60; *Qwest Corp.*, 829 N.W.2d at 561. Therefore, Taxpayers must still prove that they are similarly situated to those groups of individuals that fall within the stepchild definition. *See Varnum*, 763 N.W.2d at 882 ("[I]f plaintiffs cannot show as a preliminary matter that they are similarly situated, courts

[1] In arguing that "the 'similarly situated' inquiry is of limited analytical value," Taxpayers rely primarily on *Varnum*. *See* Appellants' Br. at 42–47. Notably, however, *Varnum* applied a heightened level of scrutiny than the rational basis test applicable to Taxpayers' equal protection claim. *See* 763 N.W.2d at 885–88.

do not further consider whether their different treatment under a statute is permitted under the equal protection clause."). "In considering whether two classes are similarly situated, a court cannot simply look at the trait used by the legislature to define a classification under a statute and conclude a person without that trait is not similarly situated to persons with the trait." *Varnum*, 763 N.W.2d at 882. Indeed, Iowa's equal protection clause is not designed "merely [to] ensure [that] the challenged statute applies equally to all people in the legislative classification . . . [because] [s]uch a threshold analysis would hollow out the constitution's promise of equal protection." *Id.* at 882–83. Instead, "the equal protection guarantee requires that laws treat all those who are similarly situated *with respect to the purposes of the law* alike." *Id.* at 883 (citing *RACI II*, 675 N.W.2d at 7). Accordingly, when deciding if Taxpayers have satisfied this similarly situated requirement, it is necessary to identify the purposes of sections 450.1(1)(e) and 450.9.[2]

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[2] Because the effect of section 450.1(1)(e) is to define the scope of the stepchild exemption in section 450.9, the legislative purposes underpinning the latter provision become relevant in deciding Taxpayers' equal protection claim.

Although the analysis at this step of the equal protection inquiry is somewhat intertwined with the analysis at the legitimacy step, the similarly situated requirement remains a threshold matter. *See Varnum*, 763 N.W.2d at 884 n.9. Taxpayers, however, analyze this similarly situated question as an afterthought, claiming that "[i]t is less a threshold inquiry and more a restatement of the core equal protection guarantee." *See* Appellants' Br. at 44. Indeed, Taxpayers do not identify the purposes of the law, nor do they explain how or why they are similarly situated with respect to such purposes to those who fall under the scope of the stepchild definition. *See generally id.* at 42–47. Instead, claiming that the Department's arguments are "tautological" and "circular," Taxpayers merely offer the bare assertion that they are similarly situated for two independent and mutually exclusive reasons. *See id.* at 42, 45. First, Taxpayers rely on "the common law principle that neither death nor divorce severs the relationship between stepparent and stepchild." *See id.* at 42. Second, they contend that they are similarly situated because of the closeness of their personal relationship with Decedent. *See id.* For reasons that follow, the Court must reject both arguments and

hold that Taxpayers have not met their burden of proof with respect to the similarly situated requirement.

1. Common law principle.

Taxes, including inheritance tax, are a means "to raise revenues for [the] operation of state government." *See* 42 AM. JUR. 2D *Inheritance, Estate, & Gift Taxes* § 9; *see also Dickinson*, 35 N.W.2d at 75 ("The obvious object of the Legislature was to provide for the necessary funds with which to carry on governmental functions. . . ."). "[E]xemptions from taxation are generally disfavored as contrary to the democratic notions of equality and fairness, and exist solely due to legislative grace." *Van Buren Cnty. Hosp. & Clinics v. Bd. of Review of Van Buren Cnty.*, 650 N.W.2d 580, 586 (Iowa 2002). One of the purposes of Iowa Code chapter 450 is to raise funds for the operation of state government while achieving an equitable distribution of the tax burden among Iowa taxpayers by providing a full exemption to those beneficiaries who are legally related to the decedent at the time of his or her passing by marriage, legal adoption, or by consanguinity. *See id.* § 450.1(1)(e) (2011); § 450.9 (2011). Thus, the availability of the stepchild exemption depends solely on the

existence of a legal relationship (i.e., the marriage) at the time of the decedent's passing.

Providing an inheritance tax exemption to stepchildren, as defined in section 450.1(1)(e), serves additional purposes. For instance, a rational legislator may have concluded that the stepchild exemption would incentivize saving and investment by the stepparent, which, in turn, would broaden the tax base, thus making it easier to raise funds for the support of state government. *See* Richard Baron, *Capital Gains Tax and Inheritance Tax* 9 (Inst. of Dirs., Policy Paper, Feb. 2007) ("But if private sector wealth is allowed to cascade down the generations then everyone . . . will benefit. The public sector will also benefit, because economic growth will lead to an increased tax base, making it easier to raise funds for public services."). The exemption also promotes the development of close interpersonal relationships within the family unit created by the marriage between the stepparent and the biological or adoptive parent. *Cf. Estate of Kunkel v. United States*, 689 F.2d 408, 416 (3d Cir. 1982) (stating that taxing bequests to close relatives at a preferential rate

encourages such bequests and promotes the development of close family relationships).

The common law principle relied on by Taxpayers does not serve these purposes, however. Indeed, under the common law, the status of a stepchild, once acquired, could not be relinquished even if the underlying marital relationship was severed. In enacting section 450.1(1)(e), the legislature apparently decided that basing the stepchild exemption on the common law rule would not achieve an equitable distribution of the tax burden; would not promote saving and investment and a broader tax base; and would not foster the development of close interpersonal relationships within the blended family.[3]

Moreover, the Iowa legislature has chosen not to follow this common law rule in other areas of the law when defining the stepparent-stepchild relationship. For instance, a stepparent is obligated to financially support his or her stepchildren, but such

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[3] "Blended families are formed when remarriages occur or when children living in a household share only one or no biological parents. The presence of a stepparent, stepsibling, or half sibling designates a family as blended." Rose M. Kreider & Renee Ellis, *Living Arrangements of Children: 2009* 1 (U.S. Dep't of Commerce, Bureau of Census June 2011) (hereinafter "Living Arrangements of Children").

obligation ends with divorce. *See id.* § 252A.2(2) (2011); § 252A.3(1) (2011). Additionally, the status of a stepparent within the meaning of Iowa Code chapter 600A is conferred upon and lasts solely during the marriage of the stepparent and the biological or adoptive parent. *See id.* § 600A.2(17) (2011). A stepparent under chapter 600A may become a custodian of a minor stepchild, which triggers a number of rights and duties for the stepparent. *See id.* § 600A.2(6) (2011); § 600A.2A (2011). A stepparent may also file an adoption petition for a minor child without first terminating the parental rights of the child's parent who is not the spouse of the stepparent. *See id.* § 600.2(1) (2011); § 600.3(2)(a)(2) (2011). What this non-exhaustive list of examples demonstrates is that the legislature's decision to define "stepchild" for inheritance tax purposes solely by reference to the marital relationship between the stepparent and the biological or adoptive parent is an accepted and common approach. Indeed, so defining the scope of the stepchild exemption represents a reasonable legislative line-drawing, and does not offend the equal protection clause of the Iowa Constitution.

Stepchildren were granted an unlimited exemption from inheritance tax with the 1997 amendment to section 450.9. *See* 1997 Iowa Acts, 77 G.A., ch. 1 § 2. Granting an exemption to stepchildren was in line with the purposes of section 450.9 because the stepchild status was conferred upon the biological or adoptive children of one's spouse upon marriage. Without section 450.1(1)(e), however, there was a potential for interpreting the term "stepchild" expansively to include those individuals whose parent had divorced their stepparent. In fact, for deaths occurring prior to July 1, 2003 when section 450.1(1)(e) went into effect, the Department followed the common law and extended the stepchild exemption to such individuals. *See* Hr'g Tr. at 98:22–99:23 (App. at 151). This practice was at odds with the legislature's apparent intent to grant tax exemptions only to those taxpayers whose biological or adoptive parent was married to the decedent at the time of the decedent's passing. Indeed, the Department's expansive interpretation of the stepchild exemption did not effectuate the purposes of section 450.9 because the exemption applied even in those cases where the blended family had been severed through divorce. A rational legislator may have concluded

that such expansive application of the exemption sacrificed needed tax revenue without maintaining the equitable distribution of the tax burden; did not stimulate economic growth and a broader tax base; and did not promote close interpersonal relations within blended families prior to divorce. For these reasons, the legislature enacted section 450.1(1)(e) to countermand the Department's broad interpretation as it was inconsistent with legislative intent and the purposes of section 450.9. *See Branstad v. State ex rel. Natural Res. Comm'n*, 871 N.W2d 291, 295 (Iowa 2015) ("We also consider the legislative history of a statute, including prior enactments, when ascertaining legislative intent."). Accordingly, Taxpayers are not similarly situated not simply because they lack the classifying trait—marriage between the stepparent and the biological or adoptive parent—but because the classifying trait is central to achieving the purposes of section 450.9. Thus, the absence of the classifying trait defeats Taxpayers' claim that they are similarly situated because of the common law principle.

2. Post-divorce close personal relationship.

Taxpayers' reliance on their post-divorce close relationship with Decedent is similarly unavailing. *See* Ex. E ¶ 5 (App. at 1–2); *see*

also Hr'g Tr. at 25:9–19; 50:10–14; 70:23–71:24 (App. at 132, 139, 144). Promoting affinity between the former stepparent and the former stepchild is not one of the purposes of the stepchild exemption. *Cf. id.* § 450.1(1)(e) (2011). Moreover, the legislature apparently determined that post-divorce affinity does not serve any of the exemption's purposes, i.e., equitable distribution of the tax burden; promoting economic growth and a broader tax base; and promoting the development of close interpersonal relations in blended families. Rather, it is the marital relationship in existence at the time of the decedent's death that determines the availability of the stepchild exemption because that marriage—as the classifying trait—is necessary to effectuate the purposes of the stepchild exemption. The post-divorce affinity between a decedent and the decedent's former stepchildren has no effect on achieving the exemption's purposes. Indeed, in this regard, Taxpayers are more similarly situated to children living in households where the adults cohabitate without a marriage than to children in blended families.

If post-divorce close personal relationships advanced the purposes of section 450.9, then Constance Hitzhusen would have also

been entitled to an exemption. If Decedent did not have an amicable relationship with his former spouse, he would not have devised almost one quarter of his net estate to her. *See* Ex. B at 1 (App. at 105). Such close post-divorce relationship, however, does not confer upon Ms. Hitzhusen the status of a surviving spouse. Similarly, the post-divorce affinal relationship between Decedent and Taxpayers does not confer upon Taxpayers the status of stepchildren, and such relationship is, in any event, irrelevant to the purposes behind the stepchild exemption. Because of that, the Iowa legislature decided not to extend the inheritance tax exemption to former spouses or former stepchildren, regardless of the nature of the relationship between those beneficiaries and their decedents following divorce. Thus, the legislature identified the marriage between the stepparent and the biological or adoptive parent as the classifying trait for purposes of the stepchild exemption because the existence of such marriage was instrumental to attaining the exemption's goals. Therefore, the absence of the classifying trait defeats Taxpayers' argument that they are similarly situated because of their post-divorce close personal relationship with Decedent.

For the reasons stated in this Section, this Court must affirm the district court's determination that Taxpayers are not similarly situated, *see* Ruling at 7 (App. at 49), thus upholding section 450.1(1)(e) as constitutional.

E. The Challenged Classification Is Rationally Related to Legitimate State Interests.

At the legitimacy step of the rational basis test, Taxpayers must prove either that there is no legitimate goal advanced by the challenged classification or that the challenged classification does not bear a rational relationship to any such goal. *See Little Sioux*, 861 N.W.2d at 860–61. Thus, to succeed, Taxpayers must show that there is no based-in-fact, realistically conceivable legitimate state interest advanced by the stepchild definition. *See Qwest Corp.*, 829 N.W.2d at 559 (internal citations omitted). In other words, Taxpayers must demonstrate either that any policy reasons justifying the stepchild classification are specious as opposed to credible or that such policy reasons have no basis in fact, i.e., the asserted factual basis for the challenged classification would not withstand judicial scrutiny. *See id.* at 560. Alternatively, Taxpayers could also prevail by showing that the relationship between the challenged classification and any

legitimate governmental goals is so weak and attenuated as to render the classification arbitrary. *See id.* Stated another way, the stepchild classification would not be rationally related to a legitimate state interest if it "features *extreme* degrees of overinclusion and underinclusion in relation to any particular goal." *See Little Sioux*, 861 N.W.2d at 861 (emphasis added). The legislature's failure to specifically identify any governmental goals advanced by the challenged classification does not render section 450.1(1)(e) unconstitutional. *See King*, 818 N.W.2d at 28 (explaining that, in the context of a rational basis challenge, the State does not have to put forth any evidence supporting the constitutionality of the challenged statute and also noting that "only a 'plausible' justification is required"). There are several plausible state interests advanced by the challenged classification.

1. The stepchild classification promotes close interpersonal relations in blended families.

The challenged classification is rationally related to the legitimate state interest of promoting close interpersonal relations and stability in blended families. *See Moore v. City of E. Cleveland*,

431 U.S. 494, 503–04 (1977) ("[T]he Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition. It is through the family that we inculcate and pass down many of our most cherished values, moral and cultural."); *Callender v. Skiles*, 591 N.W.2d 182, 191 (Iowa 1999) (recognizing "promoting the sanctity and stability of the family" as a legitimate state interest); *Estate of Robitaille v. N.H. Dep't of Revenue Admin.*, 827 A.2d 981, 985 (N.H. 2003) (identifying "strengthening and preserving family relationships" as a legitimate governmental interest); *Kunkel's Estate*, 689 F.2d at 416 (acknowledging "the promotion of close family relationships" as a legitimate state goal). Taxpayers unfairly characterize this governmental interest as "[a]nother iteration[] of the 'stepparent adoption' concept." *See* Appellants' Br. at 31. The Department has never argued that the Iowa legislature enacted sections 450.1(1)(e) and 450.9 to promote stepparent adoption.[4] Nor has the Department conceded that stepparent adoption and promoting close relations within blended families are synonymous. The legislature, however,

[4] Both the Administrative Law Judge and the District Court noted that Decedent did not legally adopt Taxpayers. *See* Proposed Decision at 10 n.4 (App. at 35) & Ruling at 3 (App. at 45).

may have concluded these two provisions will indeed promote stepparent adoption. *See King*, 818 N.W.2d at 30 (stating that courts may uphold "legislative classifications based on judgments the legislature could have made, without requiring evidence or 'proof' in either a traditional or a nontraditional sense" (internal citation omitted)); *see also Judicial Branch & State Ct. Adm'r v. Iowa Dist. Ct. for Linn Cnty.*, 800 N.W.2d 569, 579 (Iowa 2011) (same). At any rate, Taxpayers assert that the stepchild definition cannot possibly promote stepparent adoption or close interpersonal relations in blended families because section 450.1(1)(e) does not grant an exemption, but rather has a "narrowing" effect. *See* Appellants' Br. at 32. This assertion reflects a misguided understanding of the state interest at issue. The stepchild exemption, as defined in sections 450.1(1)(e) and 450.9, engenders close interpersonal relations in the blended family throughout the duration of the marriage. The Iowa legislature may have concluded, however, that promoting close interpersonal relations between the stepparent and the stepchild following divorce is not a legitimate state interest, and, for that

reason, limited the stepchild exemption by enacting section 450.1(1)(e).

Close interpersonal relations and stability within the blended family are vital to proper child-rearing, and providing stable homes for children is undoubtedly a legitimate state interest. *See In re P.L.*, 778 N.W.2d 33, 38 (Iowa 2010) ("The State's interest in providing a stable, loving homelife for a child as soon as possible is a[n] important . . . interest."). Approximately four and one half percent of all households in the United States with children under the age of eighteen are blended families raising stepchildren and biological children. *See* Rose M. Kreider & Daphne A. Lofquist, *Adopted Children and Stepchildren: 2010* 31, Table 12 (U.S. Dep't of Commerce, Bureau of Census Apr. 2014); *see also* Living Arrangements of Children at 7 (reporting that 5.3 million children live with a biological parent and a stepparent). Granting an inheritance tax exemption to stepchildren (as defined in section 450.1(1)(e)) of blended households in Iowa puts the stepchildren and the biological children in such families on equal footing when it comes to their inheritance tax obligations. A rational legislature may have

concluded that removing such inequality would help strengthen the interpersonal relations in blended families. *Cf. King v. King*, 828 S.W.2d 630, 632 (Ky. 1992) (noting, in the context of an equal protection challenge to Kentucky's grandparents' visitation statute, that "[o]ne of the main purposes of the statute [wa]s to prevent a family quarrel of little significance to disrupt a relationship which should be encouraged rather than destroyed"), *overruled on other grounds as recognized by Walker v. Blair*, 382 S.W.3d 862 (Ky. 2012). Once a blended family is terminated by divorce, however, there no longer is any need to strengthen the interpersonal relations within the family unit because the family unit has been dissolved. Additionally, the legitimate state interest of providing stable homes for children in blended families disappears following divorce. Consequently, extending the stepchild exemption to former stepchildren would not advance the legitimate goals of promoting close interpersonal relations or ensuring a stable environment for child-rearing in blended families. Therefore, the Court must uphold the constitutionality of the stepchild classification because it is neither

overinclusive nor underinclusive—much less to an extreme degree—with respect to these governmental interests.

Taxpayers argue, however, that the challenged classification is not rationally related to these legitimate state interests, and offer the following four arguments in support. First, Taxpayers argue that by limiting the applicability of section 450.9, the Iowa legislature "effectively penalize[es] the stepchild for decisions and actions that are utterly beyond the control of the stepchild." *See* Appellants' Br. at 32–33. Citing to *Trimble v. Gordon*, 430 U.S. 762, 769 (1977), Taxpayers claim that the United States Supreme Court has already held similar classifications violative of the equal protection clause. *See id.* at 33. The Department disagrees. As an initial matter, *Trimble* is inapposite because it applies a heightened level of scrutiny than rational basis. *Trimble* involves an equal protection challenge to an Illinois statute providing that illegitimate children may only inherit by intestate succession from their mothers. *See* 430 U.S. at 764–65. Classifications based on illegitimacy "receive a more far-reaching scrutiny under the Equal Protection Clause than will

other laws regulating economic and social conditions." *See id.* at 781 (Rehnquist, J., dissenting).

Additionally, in overruling the Illinois Supreme Court's decision, the United States Supreme Court criticized its reliance "on the State's purported interest in 'the promotion of (legitimate) family relationships.'" *See id.* at 768 (internal citations omitted). In contrast, the Department is not asserting that the stepchild definition was enacted to promote marriage or discourage and punish divorce. Indeed, the challenged classification does not punish (presumably by imposing inheritance tax) former stepchildren for the parents' decision to divorce. It merely removes a tax exemption promoting the development of close interpersonal relations within the blended family once such family has been dissolved through divorce. Moreover, as lineal descendants, a decedent's illegitimate children are also exempt from inheritance tax under Iowa law. *See id.* § 450.9 (2011). Accordingly, granting an inheritance tax exemption to former stepchildren would no longer be in line with the purposes of section 450.9.

Taxpayers next argue that the classification is not rationally related to this state interest because the causal relationship between the classification and the goal to be achieved is "extremely tenuous." *See* Appellants' Br. at 33–34, 38. In particular, Taxpayers claim that because inheritance tax only operates post-mortem, providing an inheritance tax exemption cannot encourage the promotion of close interpersonal relations within the family unit created by the parents' marriage. *See id.* at 38. The Department does not dispute that inheritance tax is only imposed upon the passing of a decedent. Taxpayers' argument, however, ignores the fact that estate planning occurs during one's lifetime. Thus, providing an unlimited exemption for stepchildren puts them on equal footing with the stepparent's biological or adopted children. Moreover, even assuming that the challenged classification will do little to further this governmental goal, the statute's ineffectiveness must be rectified not through judicial intervention, but through the democratic process. *See Ames Rental Prop. Ass'n v. City of Ames*, 736 N.W.2d 255, 263 (Iowa 2007).

Taxpayers' third argument contends that the stepchild definition actually is detrimental to achieving the legitimate state interest of promoting close interpersonal relations within blended families. *See* Appellants' Br. at 34–36. Specifically, Taxpayers argue that giving property by will is itself "compelling evidence" of the close personal relationship between the testator and the beneficiary. *See id.* at 35. Since stepchildren may only receive property by will, then "the challenged statute merely divides up the class of persons who are already 'close' to each other, . . . [and does not] encourage any type of closeness. . . ." *See id.* Taxpayers' argument misconstrues the scope of the legitimate state interest in promoting close interpersonal relations within blended families. Indeed, the stepchild definition is only a means to incentivize close relationships within the family unit that was created through the marriage between the stepparent and the biological parent. The challenged classification is not—as Taxpayers suggest—a means to promote a close personal relationship between the former stepparent and the stepchild following divorce. *See* Appellants' Br. at 34 ("The simple fact that the stepchild is receiving an inheritance is itself evidence that

the stepparent has continued to care for the stepchild following a divorce, that the affinal relationship is intact, and that the 'closeness' sought to b[y] the State is already engendered."). Moreover, the inheritance tax exemptions provided for in section 450.9 are premised not on the closeness of the personal relationship between the decedent and the beneficiary but on certain legal relationships in existence at the time of the decedent's death.

Last, Taxpayers suggest that the State's legitimate interest in promoting close family relations would be better served if the legislature adopted "[t]he common law understanding of 'Once a stepchild, always a stepchild' [because it] embraces the notion of permanency regardless of marital status. . . ." *See* Appellants' Br. at 39. Taxpayers have put forth no evidence that this common law principle reflects the prevailing nature of the relationship between former stepchildren and stepparents. Moreover, "[t]he rational basis test does not require classifications to be narrowly tailored to serve a particular end. If the classification has some reasonable basis, it does not offend the constitution simply because the classification is not made with mathematical nicety or because in practice it result[s] in

some inequality." *Qwest*, 829 N.W.2d at 555; *accord Little Sioux*, 861 N.W.2d at 857 ("[T]he fit between the means chosen by the legislature and its objective need only be rational, not perfect.").

For these reasons, the challenged classification is rationally related to the goal of encouraging close interpersonal relations within blended families. This classification is not overinclusive or underinclusive to any—and certainly not to an extreme—degree because it operates with respect to every family created by the marriage between the biological or adoptive parent and the stepparent and only until such marriage is terminated by divorce. Thus, Taxpayers have not met their "heavy burden . . . of negating every reasonable basis that might support the disparate treatment." *See Little Sioux*, 861 N.W.2d at 859 (internal citations and quotation marks omitted)). Accordingly, the Court must uphold the district court's conclusion that section 450.1(1)(e) does not offend the equal protection clause of the Iowa Constitution.

2. The challenged classification advances other legitimate state goals.

The constitutionality of the challenged classification may be sustained on an alternative basis as well, i.e., because it generates tax

revenues for the functioning of state government while achieving a fair distribution of the tax burden among Iowa taxpayers. *See Madden*, 309 U.S. at 88 ("[C]lassification has been a device for fitting tax programs to local needs and usages in order to achieve an equitable distribution of the tax burden." (internal citation omitted)); *Dickinson*, 35 N.W.2d at 75 (Iowa 1948) ("The obvious object of the Legislature was to provide for the necessary funds with which to carry on governmental functions without placing too heavy a burden upon real estate used by the owner as his home."); *Nationsbank of Tex. v. United States*, 269 F.3d 1332, 1338 (Fed. Cir. 2001) (recognizing "raising revenue and fair[] distributi[on] [of] the tax burden" as legitimate governmental interests). Taxpayers dispute the legitimacy of this state interest, arguing that it cannot, by itself, justify the stepchild classification because the notions of equity and fairness are at the core of their equal protection claim. *See* Appellants' Br. at 23. Thus, Taxpayers insist that the Department must explain why the stepchild exemption achieves an equitable distribution of the tax burden among Iowa taxpayers. *See id.*

Although the law generally disfavors tax exemptions, *see Van Buren Cnty. Hosp. & Clinics*, 650 N.W.2d at 586, the Iowa legislature may have concluded that, with respect to those related to the decedent by blood, marriage, or adoption at the time of the decedent's death, there are overriding policy considerations that justify granting inheritance tax exemptions. For instance, the legislature may have concluded that granting inheritance tax exemptions to surviving spouses, legally adopted children, lineal ascendants, lineal descendants, and stepchildren as defined in section 450.1(1)(e) would stimulate saving, investment, and economic growth, which, in turn, would lead to a broader tax base, thus making it easier to raise funds for the support of state government. *See* Baron, *supra*, at 9 (stating that eliminating inheritance tax will spur economic growth, which, in turn, will lead to a broader tax base and an increase in revenue collections). With respect to stepchildren whose parent and stepparent divorced, however, the legislature decided that the balancing of these competing considerations weighed against granting an exemption. Thus, a rational legislator could have concluded that once the marriage is terminated by divorce, granting an inheritance

tax exemption to former stepchildren would no longer promote economic growth and a broader tax base.

The gravamen of Taxpayers' equal protection claim is that the stepchild classification is an arbitrary line-drawing that "unfairly imposed tax on them as collateral beneficiaries." *See* Appellants' Br. at 23. "Absolute equality is impracticable in taxation, and is not required by the equal protection clause." *Maxwell v. Bugbee*, 250 U.S. 525, 543 (1919). No person, including biological children, adopted children, and stepchildren, has a natural right to take property by devise or descent; rather, such privilege is created by statute. *See id.* at 540 (internal citation omitted). "[Therefore,] states may tax the privilege, discriminate between relatives, and between these and strangers, and grant exemptions, and are not precluded from this power by the provisions of their respective state Constitutions requiring uniformity and equality of taxation." *Id.* at 540–41 (internal citation and quotation marks omitted). Taxpayers claim that they are unfairly denied an exemption because their relationship with Decedent had all the hallmarks of a parent-child relationship. It is the prerogative of the Iowa legislature, however, to

decide what allocation of the tax burden among Iowa taxpayers is equitable and fair, but also sufficient to raise the necessary tax revenue for the functioning of State government. After balancing these competing considerations, the legislature decided that former stepchildren will not enjoy an exemption. The legislature made the same decision with respect to a host of other relatives, such as brothers, sisters, nieces, nephews, aunts, uncles, cousins, and stepchildren of the decedent's lineal descendants. *Cf. id.* § 450.9 (2017). Therefore, with respect to the governmental goal of raising revenue while balancing the tax burden, the challenged classification can hardly be characterized as arbitrary or capricious or as one featuring extreme degrees of overinclusion or underinclusion. Accordingly, this Court must uphold as constitutional section 450.1(1)(e) because Taxpayers have not negated this reasonable basis supporting the stepchild classification. *See Little Sioux*, 861 N.W.2d at 859.

Additionally, to the extent that Taxpayers are similarly situated because of their post-divorce affinal relationship with Decedent, there are additional rational bases justifying such disparate treatment.

Certainty, predictability, and uniformity in taxation, are considerations of paramount importance in the field of tax administration, and achieving these goals is a legitimate state interest. *See, e.g.*, *Muskat v. United States*, 554 F.3d 183, 188 n.3 (1st Cir. 2009) (stating that certainty and predictability are important values in the field of taxation); *Dotson v. United* States, 87 F.3d 682, 687 (5th Cir. 1996) (stating that predictability of taxation favors both the taxpayer and the government); *F.M.C. Stores Co. v. Borough of Morris Plains*, 495 A.2d 1313, 1319 (N.J. 1985) ("[T]he practicalities of taxation require certainty and predictability."). Similarly, reducing the administrative burdens on State government, avoiding unnecessary litigation, and easing the burden on the courts are also legitimate state interests. *See Little Sioux*, 861 N.W.2d at 861 (recognizing, in the context of taxation of electricity and natural gas providers, that "providing a system of taxation which reduces existing administrative burdens on state government" is a legitimate governmental interest (internal citation and quotation marks omitted)); *Smith-Silk v. Prenzler*, 998 N.E.2d 680, 686 (Ill. Ct. App. 2013) (recognizing "reducing litigation and promoting judicial

economy" as legitimate governmental interests). The intent of section 450.1(1)(e) is to ensure that the stepchild exemption facilitates the attainment of these legitimate state goals. The stepchild classification promotes uniform tax administration by excluding from the stepchild definition those taxpayers whose biological or adoptive parent and stepparent no longer have a legal relationship (marriage). Using the affinity between the former stepparent and the former stepchild as the classifying trait, as Taxpayers urge, *see* Appellants' Br. at 42, 46, would require that the Department perform a subjective, case-by-case analysis of the nature of the relationship between the child and the former stepparent, and such an approach would render impossible the uniform administration of section 450.9. The lack of uniform administration will also spur litigation and burden the State's court system. Lastly, Taxpayers' proposal would also impose a considerable burden on the Department in administering the stepchild exemption. Accordingly, with respect to these legitimate state goals, the challenged classification is neither extremely overinclusive nor extremely underinclusive. Therefore, even assuming that Taxpayers are similarly situated with stepchildren

because of their close relationship with Decedent post-divorce, Taxpayers have nevertheless failed to explain why none of these state interests is a "reasonable basis that might support the disparate treatment." *See Little Sioux*, 861 N.W.2d at 859. Accordingly, section 450.1(1)(e) must be upheld as constitutional.

CONCLUSION

This Court must affirm the district court's ruling upholding section 450.1(1)(e) as constitutional. Taxpayers are not similarly situated to those who qualify as stepchildren and, in any event, there is a rational relationship between the stepchild classification and the legitimate governmental goals that it seeks to attain. Therefore, the district court correctly concluded that section 450.1(1)(e) did not violate the equal protection clause of the Iowa Constitution.

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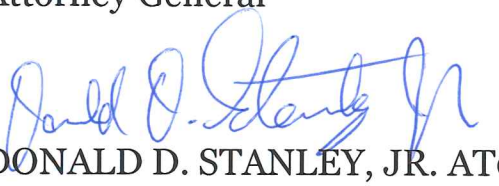

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REQUEST FOR ORAL ARGUMENT

The Department joins in Taxpayers' request for an oral argument.

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(*g*)(1) or (2) because:

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